

REMARKS

Claims 6-10 are all the claims pending in the application. Previously, claims 1-5 were canceled without prejudice or disclaimer. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

Double Patenting

The Examiner rejected claims 6 and 7 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of US Patent 6,530,693. Applicants have submitted herewith a terminal disclaimer to obviate this rejection. As noted in *Quad Environmental Technologies*, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of "obviation" into an admission or acquiescence or estoppel on the merits.¹

Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 8-10 would be allowable if rewritten in independent form. However, because the rejection of claims 6 and 7 is believed to have been overcome, Applicants have not rewritten these claims in independent form at this time.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.


¹ *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392, 1394, 1395 (Fed. Cir. 1991).

Response Under 37 C.F.R. § 1.111
U.S. Appln No. 10/758,258

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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